IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No.15039 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE M.R. SHAH Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

THAKKAR KANTILAL LAKHUBHAI

Versus

TALUKA DEVELOPMENT OFFICER

Appearance:

1. Special Civil Application No. 15039 of 2004

MR BHAVESH N DAVE for Petitioner No. 1

MS SHAILI A KAPADIA for Petitioner No. 1

MR HS MUNSHAW for Respondent No.1-2

MR DIPEN DESAI AGP for Respondent No. 3-4

CORAM : HON'BLE MR.JUSTICE M.R. SHAH

Date of decision: 02/03/2005

ORAL JUDGEMENT

(Per : HON'BLE MR.JUSTICE M.R. SHAH)

1. RULE. Mr.H.S.Munshaw, learned advocate, appears and waives service of rule on behalf of the respondent

Nos.1 and 2 and Mr.Dipen Desai, learned AGP, appears and waives service of rule on behalf of the respondent Nos.3 and 4. With the consent of the respective parties, the matter is taken up for final hearing and disposal.

2. In this petition under Article 226 of the Constitution of India, the petitioner has challenged the legality and validity of the impugned order dated 13-02-2003 passed by the Taluka Development Officer, Taluka Sami in cancelling the aid for the purpose of damage to the house due to earthquake which took place on 26-01-2001. It is the contention on behalf of the learned advocate for the petitioner that before passing impugned order dated 13-02-2003 in cancelling the aid of the petitioner which was sanctioned in favour of the petitioner without giving any opportunity to him and, therefore, it is requested to allow the present petition by quashing and setting aside the impugned order dated 13-02-2003.

3. In response to the notice issued by this Court, Mr.H.S.Munshaw, learned advocate, appears on behalf of respondent Nos.1 and 2. He has tried to justify the impugned order dated 13-02-2003 on merits. However, in view of the fact that the impugned order dated 13-02-2003 is passed without giving an opportunity to the petitioner and the same is in breach of principles of natural justice, this Court proposes to dispose off the present petition by remanding the same to the Taluka Development Officer, Taluka Sami. Considering the fact that the impugned order dated 13-02-2003 passed by the Taluka Development Officer, Taluka Sami is in breach of principles of natural justice, the same is hereby quashed and set aside without expressing anything on merits of the case, the Taluka Development Officer, Taluka Sami is directed to pass a fresh order in accordance with law and on merits after giving an opportunity to the petitioner.

4. Rule is made absolute to the aforesaid extent. There shall be no order as to costs. DS permitted.

Sd/-

[M.R.SHAH, J]

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'Bhavesh'